

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MOLLY BRICK,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting Commissioner
of Social Security,

Defendant.

8:22CV272

**MEMORANDUM
AND ORDER**

This matter is before the Court on plaintiff Molly Brick’s (“Brick”) Petition for Attorney’s Fees (Filing No. 23) under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d). The EAJA authorizes the Court to award “fees and other expenses” to a prevailing party in any civil action “brought by or against the United States,” unless the Court determines the government’s position was “substantially justified or that special circumstances make an award unjust.” *Id.* § 2412(d)(1)(A).

On January 3, 2023, the Court granted an unopposed motion (Filing No. 19) from defendant Kilolo Kijakazi, Acting Commissioner of Social Security (“Commissioner”), to reverse her denial of Brick’s application for disability benefits and remand this case for further administrative proceedings. *See* 42 U.S.C. § 405(g). In light of that ruling, Brick requests an award of attorney fees in the amount of \$3,224.72, arguing the Commissioner’s position “was not substantially justified” under § 2412(d)(1)(A). The amount reflects 12.7 hours of attorney work in 2022 at \$234.95 per hour and 1.0 hour of attorney work in 2023 at \$240.85 per hour. The Commissioner “does not object to an award of attorney fees in this amount” but notes it may be subject to offset under *Astrue v. Ratliff*, 560 U.S. 586, 593 (2010).

Having carefully reviewed Brick’s petition and the parties’ respective submissions, the Court finds Brick is a prevailing party entitled to an EAJA fee award of \$3,224.72 to

be paid by the Social Security Administration. Brick has satisfied the statutory requirements under the EAJA, *see* 28 U.S.C. § 2412(d)(1)(A), and her attorney-fee request is timely,¹ reasonable, and supported by the record. Though payable to Brick, the EAJA fee award can be sent to her attorneys for distribution. *See Ratliff*, 560 U.S. at 589-90.

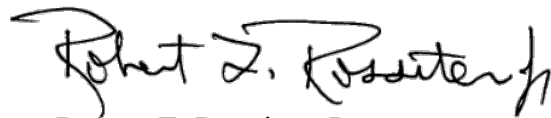
Based on the foregoing,

IT IS ORDERED:

1. Plaintiff Molly Brick's petition for attorney fees (Filing No. 23) under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), is granted.
2. Brick is awarded attorney fees in the amount of \$3,224.72.
3. The Social Security Administration shall make the fee award payable to Brick and deliver the payment to the Kappelman Law Firm at its address of record.
4. A separate judgment will issue.

Dated this 6th day of April 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", written in a cursive style.

Robert F. Rossiter, Jr.
Chief United States District Judge

¹A prevailing party requesting an EAJA fee award based on a remand under sentence four of 42 U.S.C. § 405(g) must apply no later than thirty days after the judgment has been entered and the appeal period has run such that the judgment is no longer appealable. *See Pottsmith v. Barnhart*, 306 F.3d 526, 527-28 (8th Cir. 2002); *see also Shalala v. Schaefer*, 509 U.S. 292, 302 (1993); *Melkonyan v. Sullivan*, 501 U.S. 89, 94-97 (1991).